

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 4034 of 1999

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the Judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BANASKANTHA MEHSANA GRAMIN BANK OFFICERS' ASSOCIATION
VERSUS
BANASKANTHA MEHSANA GRAMIN BANK

Appearance:

MR AJ SHASTRI for the Petitioner
MR NK MAJMUDAR for the Respondent

CORAM : MR JUSTICE S.K. KESHOTE
Date of decision: 28/07/99

C.A.V. JUDGMENT

1. This petition is filed by Banaskantha Mehsana Gramin Bank Officers' Association through its President Shri L.M. Chaudhary and prayer has been made for

quashing and setting aside the action of the respondent of the transfer of the officers as mentioned in para-7 of the petition without consultation of the petitioner-Association and also violative of norms contained in transfer policy. Second prayer has been made to direct the respondent-authority not to issue further transfer orders with respect to the officers of the respondent-Bank without consultation of the petitioner-Association in view of the agreement executed in between the petitioner -Association and respondent-authority. As usual, prayer has also been made for grant of interim relief.

2. In para-7 of the petition, the petitioner has given out the names of three officers who have been transferred. In the matter of transfer it is difficult to appreciate filing of writ petition by the Union. Transfer is not a service condition of employees/officers but it is only an incident of service. Even otherwise in the matter of transfer of employees/officers this court has very very limited power of judicial review. These are the individual matters for the officers/employees for which the officer concerned should have come up before this Court and not the Union.

3. Otherwise also, Union is contending that the transfer of these three officers has been made in violation of the transfer policy. So far as that grievance is concerned, it is suffice to say that it is hardly of any merits and substance. The Apex Court in the case of Union of India vs. S.L. Abbas reported in AIR 1993 SC 2444 decided that if the authority makes the transfer of an officer/employee in violation of transfer policy it does not give any enforceable right to him. If that is the position of law how it can give an enforceable right to the Union.

4. Second grievance has been made that as per the agreement in between the officers of the petitioner-Association and the Management of the Bank, transfer of Officers could have been made only after consultation with the Union. This is also of no substance. If such an agreement is there, it is an agreement, which cannot be enforced by this Court under Article 226 of the Constitution. It may not be a statutory agreement or an agreement under some statute. If the petitioner considers that the agreement which has been entered into in between the offices of the petitioner-Association and the Management of the Bank has been violated then remedy lies elsewhere for damages

if any sustained and suffered by the Union and not before this Court.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

zgs/-